

15062. Misbranding of Walnut Wine "Prieto" (Vino De Nogal). U. S. v. 24 Dozen Bottles, et al., of Walnut Wine "Prieto" (Vino De Nogal). Default decrees entered. Product adjudged misbranded and ordered destroyed. (F. & D. Nos. 21387, 21445. I. S. No. 10974-x. S. Nos. W-2043, W-2052.)

On or about November 27 and December 8, 1926, respectively, the United States attorney for the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels praying seizure and condemnation of 24 dozen bottles, and 356 bottles of Walnut Wine "Prieto" (Vino De Nogal), remaining in the original unbroken packages at Los Angeles, Calif., alleging that the article had been shipped by the Indian Laboratory Co., from Laredo, Texas, in various consignments, on or about October 9, 14, and 25, and November 17, 1926, respectively, and transported from the State of Texas into the State of California, and charging misbranding in violation of the food and drugs act as amended.

Analysis by this department showed that the product consisted essentially of a hydroalcoholic solution of sugar, glycerin, caramel, strychnine, and plant material.

It was alleged in the libel that the article was misbranded in that the following statements regarding the curative and therapeutic effects of the said article were false and fraudulent, since it contained no ingredient or combination of ingredients capable of producing the effects claimed: (bottle and carton, English) "to build up the system * * * it is the combination of several herbs, each combating a special ailment of the system thus giving the walnut properties a chance to enrich the blood. Take this tonic and you will do away with Malaria, Anemia, Rheumatism, Asthma, etc.;" (Spanish) "For paludism, anemia, intermittent fevers, internal rheumatism, asthma, pains in the region of the waist, kidneys, irritation of the intestines and bladder, etc.;" (carton, English) "For malaria, anemia, hay fever, rheumatism, asthma, run-down condition of the muscles, kidneys, irritation of intestines, bladder and so forth. A treatment of 'Prieto' Walnut Wine will bring strength and appetite to weak children. The best wine to purify and enrich the blood;" (circular, Spanish) "A constructor of red corpuscles and pure blood. This composition of fifteen herbs has been found among the natives for hundreds of years, it being the only doctor and the only God in whom they reposed complete confidence for curing them of their diseases. Wine of Nogal is not intended for a single disease of the blood, although it is certain that most diseases result therefrom * * * soothes the stomach and head. It combats secret diseases, rheumatism and sterility. * * * combats hypochondria, lead colic, mental derangement, epilepsy, neuralgia and convulsion. * * * scarcity of menstruation, scorbutus, and in general for persons who suffer general debility. It has another herb for paludism which * * * has been regarded as the only remedy for intermittent fevers. * * * tonic which is preferred by suffering humanity everywhere;" (testimonials) "I had suffered a long time with hemicrania, pain in the back, and sometimes I felt exhausted, owing to lack of respiration. A sort of asthmatic condition. Finally my period failed to appear thus causing a rush of blood to the head which left me deaf. It was impossible for me to work until one day a friend advised me to take Wine of Nogal, and with six bottles the period returned and all my bodily pains disappeared as though by magic * * * For nine years I suffered with hemicrania, bad digestion, nervousness, pain in the kidneys, fatigue, I was sterile and had no vitality. * * * Without more delay I purchased seven bottles and I now weigh 15 pounds more. All my disorders have disappeared and I have regained all that I had lost and raise my hands to Heaven and say there is no tonic equal to Wine of Nogal and I repeat this to all those who suffer as I suffered and tell them to take Wine of Nogal before taking anything else. * * * I suffered with rheumatism, bad digestion, pains in the side and heart which prevented me from working. I began to take the marvelous Wine of Nogal and experienced immediate relief."

Misbranding was alleged for the further reason that the statements "Contains 10% Alcohol," "Passed by the U. S. Food Administration," (Spanish) "The Board of Health of the United States was also kind enough to admit it owing to the enrichment of medicinal herbs which it contains," borne on the bottle and carton labels, were false and misleading.

On March 25, 1927, no claimant having appeared for the property, decrees were entered adjudging the product misbranded and ordering its destruction by the United States marshal.